

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE

AGRICULTURAL COUNCILS AND COMMISSIONS

ARTICLE 1. ARIZONA ICEBERG LETTUCE RESEARCH COUNCIL

PREAMBLE

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| <u>1.</u> | <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| | R3-9-101 | Amend |
| | R3-9-106 | Amend |
- 2.** **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statutes: A.R.S. § 3-526.02
- Implementing statutes: A.R.S. § 3-526.02
- 3.** **The effective date of the rules:**
- Sixty days after the Council files the rules with the Secretary of State's Office.
- 4.** **A list of all previous notices appearing in the Register addressing the rules:**
- Notice of Docket Opening: 14 A.A.R. 2040, May 23, 2008; and
- Notice of Proposed Rulemaking: 14 A.A.R. 2022, May 23, 2008.
- 5.** **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Carlos Ramírez, Rules Analyst
- Address: Arizona Department of Agriculture
- 1688 West Adams
- Phoenix, Arizona 85007
- Telephone Number: (602) 542-0962
- Fax Number: (602) 542-5420
- E-mail: cramirez@azda.gov
- 6.** **An explanation of the rules, including the agency's reasons for initiating the rules:**

The Arizona Iceberg Lettuce Research Council, serving in cooperation with the Department of Agriculture, is amending R3-9-101 and R3-9-106 to prescribe requirements for governmental units that wish to apply for Council grants. Governmental units will include any department, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch or corporation commission of this state, another state, or the federal government. The Department's separate treatment of governmental units when applying for grants is consistent with the differences in how they are treated under Title 41, dealing with grants.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

In fiscal year 2006-2007 the AILRC issued \$83,500 in grants. The rulemaking will prescribe guidelines for governmental units to apply for grants, absent the public notification process and the partial distribution requirements. The Council anticipates this will affect applicants for grants by making the process more competitive, but it will also foster further research in advancing the Council's objectives for iceberg lettuce research. It is unlikely the rulemaking will affect public or private employment or the state's general fund. The Council has determined there are no alternative means of achieving the objectives of the rulemaking.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

The Department erred in its justification in the preceding Notice of Proposed Rulemaking. The Department intended to state that when the AILRC established its grant rules, it prescribed

guidelines that applied to all applicants, whether they were persons (as defined by A.R.S. § 41-2701) or governmental units. This made the Council's rules more restrictive than the grant statutes in Title 41, which recognize the difference between persons and governmental units. The rulemaking resolves this restriction by prescribing a grant application process for governmental units while still preserving the openness of the evaluation process by putting consideration of the grant application before the AILRC during an open meeting.

The Department has also made minor revisions to the rule language as suggested by GRRC staff.

11. A summary of the comments made regarding the rules and the agency response to them:

No comments received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Whether the rules were previously made as emergency rules and if so, whether the text was changed between the making as an emergency and the making of the final rules:

Not applicable

15. The full text of the rules follows:

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Section

R3-9-101. Definitions

R3-9-106. Grants

ARTICLE 1. ARIZONA ICEBERG LETTUCE RESEARCH COUNCIL

R3-9-101. Definitions

In addition to the definitions in A.R.S. § 3-526, the following terms apply to this Article:

1. "AILRC" means the Arizona Iceberg Lettuce Research Council.
2. "Authorized signature" means the signature of an individual authorized to receive funds on behalf of the applicant and responsible for the execution of the applicant's project.
3. "Awardee" means a successful applicant to whom the AILRC awards grant funds for research on a specific project.
4. "Department" means the Arizona Department of Agriculture.
5. "Governmental unit" means any department, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch or corporation commission of this state, another state, or the federal government.
- ~~6.~~ 7. "Grant" means an award of financial support to an applicant according to A.R.S. § 3-526.02(B) and (C)(5).
- ~~6.~~ 7. "Grant award agreement" means a document that advises an applicant of the amount of money awarded following receipt by the AILRC of the applicant's signed acceptance.

R3-9-106. Grants

- A. Grant application process.
 1. The AILRC shall award grants according to the competitive grant solicitation requirements of this Article.
 2. The AILRC shall post the grant application and manual on the AILRC's web site at least four weeks before the due date of a grant application.
 3. The AILRC shall ensure that the grant application manual contains the following items:
 - a. Grant topics related to AILRC programs specified by A.R.S. § 3-526.02(B) and (C)(5);
 - b. A statement that the information contained in an application is not confidential;

- c. A statement that the AILRC funding source is primarily from per carton assessments on iceberg lettuce grown in Arizona;
 - d. An application form including sections about the description of the grant project, scope of work to be performed, an authorized signature line, and a sample budget form;
 - e. A statement that the applicant shall not include overhead expenses in the budget for the proposed project;
 - f. The criteria that the AILRC shall use to evaluate an application;
 - g. The date and time by which the applicant shall submit an application;
 - h. The anticipated date of the AILRC award;
 - i. A copy of the AILRC grant solicitation rules; and
 - j. Any other information necessary for the grant application.
- 4. The AILRC shall not consider an application received by the AILRC after the due date and time.
- B. Criteria. The AILRC shall consider the following when reviewing a grant application and deciding whether to award AILRC funds:
 - 1. The applicant's successful completion of prior research projects,
 - 2. The extent to which the proposed project identifies solutions to current issues facing the iceberg lettuce industry,
 - 3. The extent to which the proposed project addresses future issues facing the iceberg lettuce industry,
 - 4. The extent to which the proposed project addresses the findings of any industry surveys conducted within the previous year,
 - 5. The appropriateness of the budget request in achieving the project objectives,
 - 6. The appropriateness of the proposal time-frame to the stated project objectives, and
 - 7. Relevant experience and qualifications of the applicant.
- C. Public participation.

1. The AILRC shall make all applications available for public inspection by the business day following the application due date.
 2. Before awarding a grant, the AILRC shall discuss and evaluate grant applications and proposed projects at a meeting conducted under A.R.S. § 38-431 et seq.
- D. Evaluation of grant applications.
1. The AILRC may allow applicants to make oral or written presentations at the public meeting if time, applicant availability, and meeting space permit.
 2. The AILRC may modify an applicant's proposed project in awarding funding.
 3. The AILRC shall notify an applicant in writing of the AILRC's decision to fund, modify, or deny funding for a proposed project within 10 business days of the AILRC decision. The AILRC shall notify applicants by the U.S. Postal Service, commercial delivery, electronic mail, or facsimile.
- E. Awards and project monitoring.
1. Before releasing grant funds, the AILRC shall execute a grant award agreement with the awardee. The awardee shall agree to accept the grant's legal requirements and conditions and authorize the AILRC to monitor the progress of the project by signing a grant award agreement.
 2. The AILRC shall pay no more than 50% of the grant in the initial payment to the awardee.
 3. During the term of the project, the awardee shall inform the AILRC of changes to the awardee's address, telephone number, or other contact information.
 4. The AILRC may require an interim written report or oral presentation from the awardee during the pendency of the project.
 5. The AILRC shall not award grant funds remaining after the initial payment until the awardee submits to the AILRC:
 - a. A final research report, and
 - b. An invoice for actual final project expenses not exceeding the remaining portion of the award.

6. The AILRC shall make research findings and reports resulting from any grant awarded by the AILRC available to Arizona iceberg lettuce producers.
- F. Repayment. If the awardee does not complete the project as specified in the grant award agreement, the awardee shall return all unexpended grant funds within 30 days after receipt of a written request by the AILRC.
- G. Governmental units.
1. The AILRC may request one or more governmental units to submit grant applications as prescribed in subsection (G)(3), without regard to subsections (A), (E)(2), and (E)(5).
 2. The AILRC may issue grants to governmental units without regard to subsections (A), (E)(2), and (E)(5).
 3. A governmental unit may apply to the AILRC for a grant when there is no pending request for grant applications under subsection (A) under the following conditions:
 - a. The application shall include a description of the project, the scope of work to be performed, a budget that does not include overhead expenses, and an authorized signature.
 - b. The application shall be available for public inspection upon receipt by the AILRC.